

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 971 OF 2007

Kachara Vahatuk Shramik Sangh

... Petitioner

versus

Municipal Corporation of Greater Mumbai and anr.

...Respondents

Mrs. Meena H. Doshi, instructed by Mr. Bhavesh Parmar, for the petitioner.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare for respondent No.1.

Mr. Pradeep Jadhav, Assistant Government Pleader, for respondent No.2.

CORAM: SWATANTER KUMAR, C.J. &
S.C. DHARMADHIKARI, J.

DATE: MAY 04, 2007.

P.C.

We have heard the learned counsel appearing for the parties.

2. It is conceded before us that as far as the first prayer in the writ petition is concerned, the reference has already been made by the Appropriate Government to the Industrial Court. The order dated 14th April, 2007 has been placed on record. As far as this prayer is concerned, the same has become infructuous and accordingly does

not survive.

3. With regard to the other contention raised on behalf of the petitioner that this Court should pass an order of *status quo* against respondent No.1 in relation to their employment is without any merit. It can hardly be disputed that the members of the petitioner are employees of the contractors who are working with the Corporation in furtherance to acceptance of their tenders. The contractors, for reasons best known to the petitioner, have not been impleaded as parties to this writ petition. Ex facie, there is nothing on record of this file to show that the members of the petitioner are employees of the Corporation and there is a relationship of master and servant directly between them. To pass an interim order of *status quo* would tantamount to compelling the Corporation to continue the services of the members of the petitioner at their own responsibility. That is neither the scope of the writ petition nor such an order can be made at this stage. Counsel appearing for the Corporation has relied upon a judgment of a Constitution Bench of the Supreme Court in the case of *Secretary, State of Karnataka and others vs. Umadevi and others*, [(2006) 4 SCC 1] to contend that passing of such a direction by the Court

would tantamount to being unfair to large number of persons who might be awaiting employment in the regular course of the business of the Corporation. We are of the considered view that the contractors who had employed the members of the petitioner are, if not necessary, proper parties for complete and just adjudication of the dispute/claim raised in the writ petition.

4. Be that as it may, while clearly stating that any observations made in this order would not in any way affect the claim of the parties before the Industrial Court, we decline to pass interim order to the petitioner at this stage and dispose of this writ petition finally. However, the learned counsel appearing for the Corporation submits that they will direct the Contractors working under the tenders to continue their contract with the first respondent for a period of two weeks without prejudice to their rights and contentions.

CHIEF JUSTICE

S.C. DHARMADHIKARI, J.